

P. 02

#20.
Affidavit

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir,

I, BRUCE A. NAGEL do declare as follows:

THAT, I am currently employed as Station Manager-Research Scientist at Mycogen Seeds;

THAT, I received my Masters of Science at the University of Nebraska and received my degree in Plant Breeding and Genetics;

THAT, I have worked the last 22 years in inbred line development, male sterile conversions, GMO trait conversions, and mutation breeding, resulting in commercial products from all of these processes over the years;

THAT, in connection with mutation breeding I have developed a number of fatty acid mutations that occurred as single-gene mutations;

THAT, by virtue of my education and professional occupation, including attending seminars and conferences, as well as keeping abreast of the scientific literature in my field, I am aware of the level of skill of the ordinary skilled artisan in the field of oil crop breeding, and mutation breeding and trait development of corn in particular;

FLYING DUTCHMAN, 1101 N. W. 6TH ST., MIAMI

APR-02-2003 WED 01:36 PM SALIWANCHIK, LLOYD & SALIWA FAX NO. 352 372 5800

P. 03

2

Docket No. MPS-411XC1
Serial No. 09/334,163

THAT, I am a named inventor on the above-identified application;

THAT, I have reviewed the instant specification, all office actions of record in this case, including the latest Office Action mailed November 4, 2002, along with all references cited therein; and thus being duly qualified, further declare as follows:

1. The lines LS0417, LS1498, and LS288 referred to in this application were stable lines in regard to the fatty acid content and phenotypic appearance after three selfing generations. These lines were all produced from the same source population, Holcisyu. Holcisyu parents yielded an F1 generation. The F1 was selfed to produce the F2 generation. F2 pollen was subjected to EMS treatment. Typically, in using EMS on the same line, only a few mutations will occur. We have found one of these in regards to the low saturate content in the claimed lines, and did not see any other effect as compared to the original source. In contrast to many breeding programs based on F1 hybrids, no other genetics were introduced into the resulting lines. Inbreeding depression was high the generation after the selected seeds were identified, as evidenced by small plant structure and uniform plants from the progeny, which showed fixation of the genotype was present. This was verified after three selfing generations.

The undersigned declares further that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or of any patent issuing thereon.

Further declarant sayeth naught.


Bruce A. Nagel

4/2/03
Date

m:\data\BAC\sig\l\app\411xc1.wpd/D:\BAC

04/02/03 13:04

TX/RX NO.2243

P.003